

Remarks

Summary of the Amendments to the Claims

The Applicant has amended claims 1 and 12 and cancelled claims 2, 13, 21 and 22.

As amended, claim 1 now describes a set of endodontic instruments consisting of three instruments. Each endodontic instrument has a working length of 3mm. Further, as depicted in the Figures each endodontic instrument has an identical rate of taper. Figure 4 provides the best representation of the identical rate of taper. At least one cutting edge runs the entire length of the working length.

As amended, the bi-conical distal end is not included in the working length of the instruments. As described in paragraph 20 and Fig. 4, the distal end of the endodontic instrument is not a portion of the working length of the instrument. Additional support for the amendments to claim 1 is found in paragraphs 9, 14 and 23.

Amended claim 12 describes a process wherein a set of endodontic instruments is provided and used to perform root canal therapy. In general, amendments corresponding to those of claim 1 have been entered in claim 12. As amended, claim 12 now clearly indicates the use of three instruments in the root canal therapy. Each instrument subsequent instrument used in the therapy is progressively smaller.

New Claim 23 has been added. Claim 23 describes a set of endodontic instruments. The set has at least three instruments. Each instrument in the set carries a working length. The length and taper of the working length on each instrument is identical. Support for this claim corresponds to the support for claim 1 and the amendments thereto.

Objection to the Drawings

The Examiner objected to the drawings on the basis of subject matter found in original claims 21 and 22. In view of the foregoing cancellation of claims 21 and 22, the Applicant believes that the drawings are now in acceptable condition.

Claim Objections

The Examiner objected to claims 2 and 13 under 37 CFR 1.75(c). The Applicant has deleted these claims.

Rejection of Claims

The Examiner rejected claims 1-2, 5, 7, 12-13, 16 and 18 under 35 U.S.C. §103(a) over Hagemann et al. (Hagemann) in view of Malmin and further in view of Roane. In view of the foregoing amendments to the claims, the Applicant respectfully traverses this rejection and requests reconsideration and withdrawal thereof.

The base reference of Hagemann does not limit the working length of the endodontic instruments to 3mm. Rather, as taught at paragraph 34, the working lengths of Hagemann's instruments may range from 1mm to 10mm. Further, as noted in paragraph 14, Hagemann teaches that each subsequent instrument has a longer working length than previous instrument. Thus, Hagemann does not teach or suggest a set of endodontic instruments wherein each instrument has a working length of 3mm.

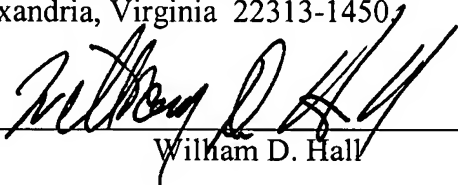
Clearly, pending claims 1 and 12 contain elements that are neither taught nor suggested by Hagemann. Further, none of the secondary references cited by the Examiner provide for the deficiencies of Hagemann.

Finally, the Applicant submits that Hagemann teaches away from the device of claim 1 and the device used in claim 12. Claim 1 clearly indicates that each instrument in the set of the current invention carries a cutting edge running from the bi-conical tip to the upper end of the working length. In contrast, Hagemann teaches away from the current invention by specifically limiting the cutting surface on instruments 2 and 3 to the lower portion of the working length (12.2 and 12.3 respectively in Figs. 2 and 6).

The remaining dependent claims depend directly or indirectly from claims 1 and 12. As such they contain all the limitations therein. Accordingly, the remaining dependent claims are also distinguishable over Hagemann and believed to be in allowable condition.

Therefore, in view of the foregoing amendments to the claims, the Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of the pending claims. A formal Notice of Allowance of Claims 1, 5-7, 12 and 16-18 and new claim 23 is earnestly solicited. Should the Examiner care to discuss any aspect of the foregoing response in greater detail, the undersigned attorney would welcome a telephone call.

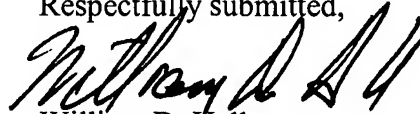
I hereby certify that this correspondence is being deposited in the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.



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Respectfully submitted,



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